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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/654,859

09/04/2003

Guy Bevente

1033-IT1004

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06/03/2010

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ATTN: PATENT DOCKETING

ROOM 2A-207

ONE AT & T WAY

BEDMINISTER, NJ 07921

EXAMINER

LANEAU, RONALD

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/03/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/654,859	Applicant(s) BEVENTE ET AL.	
	Examiner Ronald Laneau	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01142010; 11052009</u> . | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

1. The amendment filed on 01/14/10 has been entered. Claims 39-59 are added and claims 36-59 are now pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20 recites “a storage medium containing a program , Applicant is required to amend the claim to include the term “**non-transitory**” making it “**a non-transitory computer-readable storage medium ...**” in order to narrow the claim to cover only statutory embodiments. Such an amendment would typically not raise the issue of new matter even when the specification is silent on the term “non-transitory.”

Appropriate correction is required.

The claimed invention is also directed to a telecommunications subscriber service package using shared account units and non shared account units to allocate to subscriber service. As disclosed in the spec, the "package" is a pricing plan that includes "allotments" which is just an amount of a service such as "minutes" in a calling plan, and could also include rates and rules of use (See fig. 13 for an example of a package). This is clearly non-statutory and even if put on a medium would be just data per se and would still be non-statutory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 36-59 are rejected under 35 U.S.C. 102(a) as being anticipated by over Friedes (US 5,771,282).

As per claims 36-38, Friedes discloses a telecommunications subscriber service package comprising a computer-readable medium to: store: an allocation of unshared account units for use of a first subscriber service (wireline or long distance service, fig. 1, 12, 14, 16, 18) and available for use of a second subscriber service (wireless service, fig. 1, 20), the first subscriber being distinct from the second subscriber service (wireline or long distance service is different from wireless service); and store instructions that, when executed by the processor, cause the processor to determine a type of account units to be utilized by the first subscriber service based on the number of unshared account units remaining, wherein the allocation of unshared account units is utilized by the first subscriber service prior to utilization of the allocation of shared account units by the first subscriber service (shared accounts are accounts in the same group or family plans, unshared accounts are individual or single plans). This is basically a collection of nonfunctional descriptive material or a mere arrangement of data that will not distinguish the claimed invention from the prior art in terms of patentability and even if it is recorded on a medium, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Thus, this descriptive material will not distinguish the

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claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Zowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

As per claims 39, 46 and 53, Friedes discloses a method wherein the shared telecommunication units are shared telecommunication minutes (see fig. 1).

As per claims 40, 47 and 54, Friedes discloses a method wherein the first subscriber service is a land-line telecommunications service (wireline or long distance service, fig. 1, 12, 14, 16, 18) and the second subscriber service is a mobile telecommunications service (wireless service, fig. 1, 20).

As per claims 41, 42, 48, 49, 55 and 56, Friedes discloses a method wherein the land-line telecommunications service comprises a long distance telephony service and wherein the land-line telecommunications service comprises a local telephony service (see fig. 1).

As per claims 43, 50 and 57, Friedes discloses a method wherein the first subscriber service is associated with a first operating entity and the second subscriber service is associated with a second operating entity (see abstract).

As per claims 44, 45, 51, 52, 58 and 59, Friedes inherently discloses a telecommunications subscriber package wherein the second allocation of second subscriber account units is available during specific time periods; wherein the allocation of shared account units is available for a period of time and wherein the period of time is one month (all subscriptions are usually on a monthly billing cycle).

Response to Arguments

5. Applicant's arguments filed 01/04/10 have been fully considered but they are not persuasive.

Applicant argues that the claims recite a computer-readable medium and include instructions that, when executed by a processor, cause the processor to determine a number of unshared accounts units remaining. In response to Applicant's arguments, in the 101 rejection, it was made clear that even if these claims were put on a medium, would just be data per se and still be considered "non-statutory." Furthermore, Applicant argues that the Board indicated that the Office does not point to the disclosure that is asserted to meet the specific claim limitations. In response to Applicant's arguments, the whole disclosure of Friedes is about a billing technique for telecommunication services which would include the allocation of account units as claimed. Before the system does any allocation or aggregation, it has to determine which type of accounts and which subscriber it belongs to. These are well known in the system of Friedes and as a result, claims 36-59 are finally rejected.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571)272-6784. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ronald Laneau/
Primary Examiner
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